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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,357	09/22/2003	Masakazu Shigehara	50212-538	4902
7590 10/15/2004				
MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER HEALY, BRIAN	
			ART UNIT 2883	PAPER NUMBER

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary**Application No.**

10/665,357

Applicant(s)

SHIGEHARA ET AL.

Examiner

Brian M. Healy

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 10132004.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

FOREIGN PRIORITY

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in JAPAN on 09/20/2002. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

ALLOWABLE SUBJECT MATTER

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the references of record teaches or suggests the gain equalizer of claim 1 that further includes the limitations a period of residual when flattened by the coarse-tunable equalizing section in the predetermined wavelength range is broader than a band width where a transmittance of the fine-tunable equalizing section becomes -0.1dB or less.

102 REJECTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorin et. al., U.S.P. No.5,982,791.

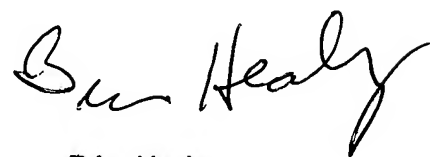
Sorin et. al. '791 teaches (Figs.1-15) a gain equalizer for flattening a spectrum of input light in a predetermined wavelength range comprising an optical fiber 26 with a plurality of chirped or long period bragg grating sections 30,32,34,36,38 and 40 including both coarse-tunable sections and fine tunable sections in order to flatten a predetermined spectrum of light wherein the coarsely-tunable equalizing section has a loss larger than that of the fine tunable equalizing section and a reflectance smaller than that of the fine-tunable equalizing section with the equalizing sections being used in conjunction with optical amplifiers, optical isolators and optical multiplexers, which clearly, fully meets Applicant's claimed limitations.

Any inquiry concerning the merits of this communication should be directed to Examiner Brian M. Healy at telephone number (571) 272-2347. The Examiner's normal work schedule is Tuesday through Friday, 6:30 AM to 5:00 PM. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956, to the technical support staff supervisor (Team 2) at telephone number (703) 308-3072, or to the Technology Center 2800 Customer Service Office at telephone number (703) 306-3329.

BRIAN M. HEALY
Primary Patent Examiner
Group Art Unit 2883

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Espindola et. al., U.S.P. No. 5,920,424 (Figs.1-10), Manna et. al., U.S.P. No. 6,603,585 (Figs.1-5) and Chan et. al., U.S.P. No. 6,636,666 (Figs.1-18).

All of the prior art documents submitted by applicant in the Information Disclosure Statement filed on September 22,2003, have been considered and made of record. Note the attached initialed copy of form PTO-1449.

A handwritten signature in black ink, appearing to read "Brian Healy". The signature is fluid and cursive, with the first name "Brian" and last name "Healy" clearly distinguishable.

Brian Healy
Primary Examiner